

REMARKS

The Official Action of January 18, 2006, and the prior art cited and relied upon therein have been carefully studied. The claims in the application are now claims 9-18, and these claims define patentable subject matter warranting their allowance. Favorable reconsideration and such allowance are respectfully urged.

New claims 17 and 18 have been added. Claims 9-18 remain in the application for consideration.

In response to the Examiner's objection to claim 14, rejection of claims 9-16 under 35 U.S.C. §101 and rejection of claim 16 under 35 U.S.C. §112, first paragraph, Applicant has respectively:

- 1) Provided an antecedent basis for the drainage lumen.
- 2) Amended the claims so as to identify the structural features adapted for use with the human body, and
- 3) Amended the specification to define "endogenous energy".

Applicant respectfully submits that the Examiner's objection and rejection of the claims have now been overcome.

The Examiner has further rejected claims 9-16 under 35 U.S.C. §103(a) as being unpatentable over Penn '976.

Applicant respectfully traverses this rejection as applied to the claims as amended and new claims 17 and 18.

Applicant notes that:

- New claim 17 corresponds to a combination of the features of claims 9, 12 and 13;
- New claim 18 corresponds to a combination of the features of claims 9 and 16.

Penn '976 shows a device for measuring brain parameters having a sensor unit 16 positioned at the distal end of a catheter. As can be seen in Figs. 5 and 6 of Penn, the catheter 16 is centered in a base plate 46 of a electronics case 42. As can be seen in Figs. 3 and 4 of Penn, the sensor unit includes a probe head 36, having a central opening whose inner diameter corresponds to the outer diameter of the electronics case 42.

Penn fails to show a semi-flexible cover being adapted to fully enclose the proximal assembly to the outside. Penn's probe head 36 does not serve such a enclosure function as it includes the central opening mentioned above. Further, Penn does not disclose a semi-flexible cover. In that respect, it is noted that on page 9, line 14 cited by the examiner regarding the semi-flexible cover, no hint is given as to a semi-flexible cover 36. Flexible material is disclosed by Penn only with respect to body 48 of the sensor 16 (compare

column 5, lines 39 ff). With respect to cover 36, Penn does not teach a semi-flexible material.

The semi-flexible cover serves to tightly seal and to protect of the components of the measuring device on the one hand and the scalp on the other. The semi-flexibility of the cover gives the opportunity to work with one and the same cover using different insertion depths of the catheter resulting in different projection lengths of the proximal assembly over the skull bone.

Clearly, Penn does not teach or show an enclosing semi-flexible cover.

Based on the above identified differences, Applicant respectfully submits that amended claim 9 and claims dependent therefrom patentably define over Penn.

As to new independent claim 17, it is noted that this claim corresponds to claim 13 having now the drainage lumen as imperative feature. Penn does not show a catheter having one lumen for the sensor components and another lumen for the drainage of fluid.

As to new independent claim 18, it is noted that this claim includes all of the features of claim 16. The term "endogenous energies" now has been clarified. Such endogenous energies being inherently present in a patient's body are not

Appln. No. 10/526,071  
Amdt. dated April 18, 2006  
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utilized with Penn's device. It should be noted that external energy being inductively transmitted is no endogenous energy as understood in the present application.

Accordingly, Applicant further submits that independent claims 17 and 18 also patentably define over Penn.


Applicant respectfully submits that claims 9-18 are now allowable, and this application is now in condition for allowance.

The prior art documents made of record and not relied upon have been noted along with the implication that such documents are deemed by the PTO to be insufficiently pertinent to warrant their applications against any of applicant's claims.

Favorable reconsideration and allowance are earnestly solicited.

Respectfully submitted,

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